HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 979 of 2006 (MS)

Ram Kumar Gupta s/o late Sri S.P. Gupta, R/o 43, Adhyotanand Marg, Rishikesh ..... Petitioner

Versus

1. Civil Judge, Senior Division, Rishikesh
2. Yograj s/o Charan Das, A02785, IDPL Township, Veerbhadra, Rishikesh, District Dehradun
3. Roop Lal s/o Charan Das village Badhan, P.O Dhamia, Via Hazipur, Hosiyarpur, Punjab
4. Gurusan Khosla s/o Indrajeet Khosla r/o Lakkarmandi, Gurudaspur, Punjab ..... Respondents

Sri J.P. Joshi, Advocate for the petitioner
Standing Counsel for the respondents.

Dated: 28.7.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus to expedite suit No. 173 of 2004.

Briefly stated, a suit has been filed by the petitioner for a decree of declaration that he is owner of the property in suit on the basis of will dated 14.6.1984. Another suit is pending before the Judge, Small Causes Court for eviction of the petitioner being SCC Suit No. 57 of 1996. At the same time respondents no. 2, 3 and 4 have also filed application under section 21(1)(a) of Act No. 13 of 1972 before the Prescribed Authority being Case No. 61 of 2003. The said application for release is also pending. The grievance of the petitioner is that his suit No.

173/04 may be decided at an early date. It may be pointed out that suit for declaration has been filed in the year 2004, whereas two proceedings for eviction of the petitioner are already pending since 1996 and 2003. However, the trial court is directed to decide suit No. 173 of 2004 within a period of six months but this will not debar the Prescribed Authority or Judge, Small Causes Court in disposing of the release application and the suit for eviction in accordance with law.

Accordingly, writ petition is disposed of. No order as to costs.

Dated: 28.7.2006 **Rajesh Tandon, J.**

*Dhyani